

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

FLASHPOINT TECHNOLOGY, INC.,

Plaintiff,

V.

APITEK, INC., ARGUS CAMERA CO., LLC,  
BUSHNELL INC., DXG TECHNOLOGY (U.S.A.)  
INC., DXG TECHNOLOGY CORP., GENERAL  
ELECTRIC CO., LEICA CAMERA AG, LEICA  
CAMERA INC., MINOX GMBH, MINOX USA, INC.,  
MUSTEK, INC. USA, MUSTEK, INC., OREGON  
SCIENTIFIC, INC., POLAROID CORP., RITZ  
INTERACTIVE, INC., RITZ CAMERA CENTERS,  
INC., SAKAR INTERNATIONAL, INC., D/B/A  
DIGITAL CONCEPTS, TABATA U.S.A., INC., D/B/A  
SEA & SEA, TARGET CORP., VISTAQUEST CORP.,  
VUPOINT SOLUTIONS, INC., WALGREEN CO., and  
WAL-MART STORES, INC.,

## Defendants

                      

C.A. No. 08-139-GMS

## JURY TRIAL DEMANDED

**PLAINTIFF'S REPLY TO DXG TECHNOLOGY  
(U.S.A.) INC.'S COUNTERCLAIMS**

Plaintiff FlashPoint Technology, Inc. (“FlashPoint”) hereby responds to each paragraph of DXG Technology (U.S.A.) Inc.’s (“DXG USA”) Counterclaims as follows:

**PARTIES**

1. Upon information and belief, admitted.
2. FlashPoint is without sufficient information or knowledge to form a belief as to the truth or falsity of the allegations of Paragraph 2 and therefore denies same.
3. Admitted.
4. Admitted that FlashPoint does not presently manufacture or sell any consumer products, but averred that it has previously done so. Otherwise, denied.

**PATENTS-IN-SUIT**

5. Admitted that FlashPoint is the legal owner of the patents-in-suit.

**JURISDICTION AND VENUE**

6. Admitted that this Counterclaim purports to arise under the Declaratory Judgment Act and the patent laws of the United States, but otherwise denied.

7. Admitted.

8. Admitted.

9. Admitted.

10. Admitted that an actual and justiciable controversy exists between DXG USA and FlashPoint relating to the validity and infringement of one or more claims of the patents-in-suit, but otherwise denied.

**COUNTERCLAIMS**

11. FlashPoint incorporates the replies set forth in Paragraphs 1-10 above as if fully set forth herein.

12. Denied.

13. Denied.

14. Denied.

15. Denied.

16. Admitted that an actual and justiciable controversy exists between DXG USA and FlashPoint relating to the validity and infringement of one or more claims of the patents-in-suit, but otherwise denied.

17. Admitted that this case is an exceptional case pursuant to 35 U.S.C. § 285 as against DXG USA, but otherwise denied.

18. No response to Paragraph 18 is required.

**PRAYER FOR RELIEF**

In addition to the relief requested in Plaintiff's Original Complaint, Plaintiff respectfully requests a judgment as follows against DXG USA as follows:

- A. That DXG USA takes nothing by its Counterclaims;
- B. That the Court award Plaintiff costs and attorneys' fees incurred in defending against these Counterclaims; and
- C. Any and all further relief for Plaintiff as the Court may deem just and proper.

**JURY DEMAND**

Plaintiff demands a trial by jury on all issues.

OF COUNSEL:

Patrick J. Coughlin  
Michael J. Dowd  
Ray Arun Mandlekar  
James R. Hail  
Nathan R. Lindell  
COUGHLIN STOIA GELLER  
RUDMAN & ROBBINS LLP  
655 West Broadway, Suite 1900  
San Diego, CA 92101  
(619) 231-1058

John F. Ward  
John W. Olivo, Jr.  
David M. Hill  
Michael J. Zinna  
WARD & OLIVO  
380 Madison Avenue  
New York, NY 10017  
(212) 697-6262

Dated: June 3, 2008

/s/ Evan O. Williford

---

David J. Margules (I.D. No. 2254)  
Evan O. Williford (I.D. No. 4162)  
BOUCHARD MARGULES & FRIEDLANDER, P.A.  
222 Delaware Avenue, Suite 1400  
Wilmington, DE 19801  
Telephone: (302) 573-3500  
dmargules@bmf-law.com  
ewilliford@bmf-law.com  
*Attorneys for plaintiff Flashpoint Technology, Inc.*

**CERTIFICATE OF SERVICE**

I, Evan O. Williford, hereby certify that on June 3, 2008, I caused to be electronically filed a true and correct copy of the foregoing document – **Plaintiff's Reply to DXG Technology (U.S.A.) Inc.'s Counterclaims** – with the Clerk of Court using CM/ECF which will send notification of such filing to the following local counsel for defendants:

Richard K. Herrmann, Esquire  
Morris James LLP  
500 Delaware Avenue, Suite 1500  
Wilmington, DE 19801  
*Attorneys for Defendants Bushnell, Inc.,  
and Tabata U.S.A., Inc. d/b/a Sea & Sea*

Richard D. Kirk, Esquire  
Bayard, P.A.  
222 Delaware Avenue, Suite 900  
Wilmington, DE 19801  
*Attorneys for Defendant Sakar  
International Inc. d/b/a Digital Concepts  
and VuPoint Solutions, Inc.*

Steven J. Balick, Esquire  
Ashby & Geddes  
500 Delaware Avenue  
Wilmington, DE 19899  
*Attorneys for Defendant General Electric  
Company*

Frederick L. Cottrell, III, Esquire  
Anne Shea Gaza, Esquire  
Richards Layton & Finger  
One Rodney Square  
Wilmington, DE 19801  
*Attorneys for Defendants Leica Camera  
AG and Leica Camera, Inc. and Mustek,  
Inc. USA*

Richard L. Horwitz, Esquire  
David E. Moore, Esquire  
Potter Anderson & Corroon LLP  
Hercules Plaza  
1313 North Market Street  
Wilmington, DE 19801  
*Attorneys for Defendants Wal-Mart Stores,  
and Target Corp and Walgreen Co.*

Candice Toll Aaron, Esquire  
Saul Ewing LLP  
222 Delaware Avenue, Suite 1200  
Wilmington, DE 19801  
*Attorneys for Defendants Ritz Camera  
Centers, Inc. and Ritz Interactive, Inc.*

Daniel V. Folt, Esquire  
Matthew Neiderman, Esquire  
Aimee M. Czachorowski, Esquire  
Duane Morris  
1100 North Market Street, Suite 1200  
Wilmington, DE 19801  
*Attorneys for Defendant Aiptek, Inc.*

Collins J. Seitz, Jr., Esquire  
Kevin F. Brady, Esquire  
Connolly Bove Lodge & Hutz LLP  
1007 N. Orange Street  
Wilmington, DE 19801  
*Attorneys for Defendants Polaroid  
Corporation*

Paul E. Crawford, Esquire  
Kevin F. Brady, Esquire  
Connolly Bove Lodge & Hutz LLP  
1007 N. Orange Street  
Wilmington, DE 19801  
*Attorneys for Defendant Oregon Scientific,  
Inc.*

Francis DiGiovanni, Esquire  
Chad S.C. Stover, Esquire  
Connolly Bove Lodge & Hutz LLP  
1007 N. Orange Street  
Wilmington, DE 19801  
302-658-9141  
*Attorneys for Defendants DXG Technology  
[U.S.A.] Inc. and DXG Technology Corp.*

I further certify that on June 3, 2008, I caused a copy of the foregoing document  
to be served on the following defendants by First Class Mail:

Argus Camera Company LLC  
1610 Colonial Parkway  
Inverness, IL 60067

VistaQuest Corporation  
6303 Owensmouth Avenue  
10<sup>th</sup> Floor  
Woodland Hills, CA 91367

Minox USA Inc.  
438 Willow Brook Road  
Plainfield, NH 03781

/s/ Evan O. Williford  
David J. Margules (I.D. No. 2254)  
Evan O. Williford (I.D. No. 4162)  
BOUCHARD MARGULES & FRIEDLANDER, P.A.  
222 Delaware Avenue, Suite 1400  
Wilmington, DE 19801  
Telephone: (302) 573-3500  
dmargules@bmf-law.com  
ewilliford@bmf-law.com  
*Attorneys for plaintiff Flashpoint Technology, Inc.*